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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,801	02/15/2001	Jheroen P. Dorenbosch	PF02049NA	2726
20280	7590	06/21/2004	EXAMINER	
MOTOROLA INC 600 NORTH US HIGHWAY 45 ROOM AS437 LIBERTYVILLE, IL 60048-5343			CORSARO, NICK	
			ART UNIT	PAPER NUMBER
			2684	18
DATE MAILED: 06/21/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/784,801

Applicant(s)

DORENBOSCH, JHEROEN P.

Examiner

Nick Corsaro

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9 and 11-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1,2,4-9 and 11-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-2, 4-9, and 11-16 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Baiyor et al. (6,282,429).

Consider claim 1, Baiyor teaches a communication system that provides communication services to a plurality of communication devices over one or more radio frequency (RF) channels (see col. 2 lines 65-67, col. 3 lines 1-24, and col. 4 lines 55-67). Baiyor teaches an operator interface configured to interactively specify a minimum probability of communication service availability for the plurality of the communication devices (see col. 6 lines 15-66 and col. 5 lines 45-67, where Baiyor discloses an operator of the system setting the priority levels based on percent of channels available for subscribers of a certain priority level). Baiyor teaches the minimum probability being in the form of a percent availability figure (see col. 5 lines 47-67, where Baiyor is discussing subscribers with priority based on allocating them a percent of the capacity, i.e., channels). Baiyor teaches a resource controller configured to receive the minimum

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probability from the operator interface change at least one system parameter based on the minimum probability and adjust availability for the least one communication resource used to provide the communication services to the plurality of communication devices according to the changed system parameter (see col. 6 lines 15-67, col. 8 lines 56-67 and col. 9 lines 1-52, where Baiyor is discussing software and hardware entities that perform the process of allocating channels, therefore, a resource controller).

Consider claim 8, Baiyor teaches a method for providing communication services to a plurality of communication devices over one or more radio frequency (RF) channels (see col. 2 lines 65-67, col. 3 lines 1-24, and col. 4 lines 55-67). Baiyor teaches specifying a minimum probability of communication service availability for the plurality of communication devices, the minimum probability being in the form of a percent availability figure (see col. 5 lines 47-67, where Baiyor is discussing subscribers with priority based on allocating them a percent of the capacity, i.e., channels). Baiyor teaches changing at least one system parameter based on the specified minimum probability and adjusting availability of at least one communication resource used to provide the communication service to the plurality of communication devices according the changed system parameter (see col. 5 lines 45-67, col. 6 lines 15-67, col. 8 lines 56-67 and col. 9 lines 1-52, where Baiyor is discussing software and hardware entities that perform the process of allocating channels, therefore, a resource controller).

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 4-7, 9, and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baiyor et al. (6,282,429) in view of Obhan et al. (6,366,780).

Consider claim 2, and 9, Baiyor discloses the service availability is modified by changing at least one parameter essentially consisting of: a number of communication devices that receive the communication services, a number of communication devices receiving the communication services in a cell (see col. 5 lines 47-67). Baiyor does not specifically disclose a bit rate over an RF channel used to communicate data with the communication devices; and a coding algorithm used to communicate information with the plurality of communication devices. Obhan teaches a bit rate over an RF channel used to communicate data with the communication devices; and a coding algorithm used to communicate information with the plurality of communication devices (see col. 3 lines 22-40, col. 24 lines 3-16, where Obhan discusses the class of service may be video or data, both having different data rates and coding schemes). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Baiyor, and have the parameter be a bit rate over an RF channel used to communicate data with the communication devices; and a coding algorithm used to communicate information with the plurality of communication devices, as taught by Obhan, thus allowing the system operator to properly manage the spectrum for different types of users, as discussed by Obhan (col. 2 lines 16-35).

Consider claims 4-7 and 11-16, Baiyor discloses a priority access system, therefore, allowing communications based on communication priority for a user based on the percent of available channels where the system operator enters the priorities via an operator interface (see

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col. 5 lines 47-67, and col. 6 lines 15-67). Baiyor does not specifically disclose the system bases decisions of other parameters such a history of traffic patterns and traffic mixes. Obhan teaches disclose the system bases decisions of other parameters such a history of traffic patterns and traffic mixes (see col. 6 lines 5-67, col. 9 lines 1-33, col. 10 lines 1-67, col. 12 lines 10-25, col. 14 lines 5-67, and col. 16 lines 1-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Baiyor, and have the system bases decisions of other parameters such a history of traffic patterns and traffic mixes, as taught by Obhan, thus allowing the system operator to properly manage the spectrum for different types of users, as discussed by Obhan (col. 2 lines 16-35).

***Conclusion***

3. Any inquiry concerning this communication should be directed to Nick Corsaro at telephone number (703) 306-5616.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung, can be reached at (703) 308-7745. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(703) 872-9314 (for Technology center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth, Floor (Receptionist). Any inquiry of a general nature or relating to the status of this

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application or proceeding should be directed to the Technology Center 2600 customer Service

Office whose telephone number is (703) 306-0377.

Nick Corsaro

Primary Examiner

  
**NICK CORSARO**  
**PATENT EXAMINER**